

AMENDED IN ASSEMBLY MAY 6, 2014

AMENDED IN ASSEMBLY APRIL 24, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## ASSEMBLY BILL

**No. 2762**

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**Introduced by Committee on Local Government (Achadjian (Chair),  
Levine (Vice Chair), Alejo, Gordon, Melendez, Mullin, Rendon,  
and Waldron)**

March 24, 2014

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An act to amend Sections 56100, 56106, 56332, 56653, 56668, 56886, and 57113 of, to add and repeal Section 56434 to, and to repeal Section 56101 of, the Government Code, relating to local government.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2762, as amended, Committee on Local Government. Local government.

Existing law, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, provides the authority and procedures for the initiation, conduct, and completion of changes of organization and reorganization of cities and districts. The act does not apply to pending proceedings for a change or organization or reorganization for which the application was accepted for filing prior to January 1, 2001, as specified. The act authorizes these pending proceedings to be continued and completed under, and in accordance with, the law under which the proceedings were commenced.

This bill would repeal those provisions relating to pending proceedings for a change or organization or reorganization for which an application was accepted for filing prior to January 1, 2001, and make other conforming changes.

The act specifies that provisions governing the time within which an official or the commission is to act are, with specific exceptions, directory rather than mandatory.

This bill would make a technical amendment to that provision.

The act provides that in each county there is a local agency formation commission, and that the commission shall include in its membership 2 presiding officers or members of legislative bodies of independent special districts and an alternate, selected by the independent special district selection committee. Existing law provides that the independent special district selection committee shall consist of the presiding officer of the legislative body of each independent special district.

The bill would authorize the legislative body of a district to appoint one of its members as an alternate to participate in the selection committee in the presiding officer's place.

The act authorizes the executive officer of the selection committee, if he or she determines that a meeting for the purpose of selecting the special district representatives or for filling a vacancy is not feasible, to conduct the business of the committee in writing, as specified.

This bill would recast those provisions and, in addition, would provide that a majority of the independent special district selection committee may determine to conduct the committee's business by mail, including holding all elections by mailed ballot, as specified.

This bill would also authorize a local agency formation commission, until January 1, 2019, to review and comment upon the extension of services into previously unserved territory within unincorporated areas, and the creation of new service providers to extend urban type development into previously unserved territory within unincorporated areas.

The act requires a local agency or school district that initiates proceedings for a change of local government organization or reorganization by submitting a resolution of application for a change of organization or reorganization to also submit a plan for providing services within the effected territory, as specified.

This bill would instead require, if a proposal for a change of organization or reorganization is submitted, that the applicant submit a plan for providing services within the effected territory.

The act specifies the factors that a local agency formation commission is required to consider in the review of a proposal for a change of organization or reorganization, including, among other things, a regional

transportation plan, as specified, and its consistency with city or county general and specific plans.

This bill instead would require the local agency formation commission to consider, in the review of a proposal for a change of organization or reorganization, the consistency of the entire proposal for a change of organization or reorganization with city or county general and specific plans. By increasing the duties of a local agency formation commission, this bill would impose a state-mandated local program.

The act authorizes a change of organization or reorganization to provide for, or to be made subject to, one or more terms and conditions specified in the commission's resolution making determinations, in which case, the terms and conditions imposed constitute the exclusive terms and conditions for the change of organization or reorganization, notwithstanding other specified general provisions of law.

This bill instead would provide, that if a change or reorganization is made subject to terms and conditions, those terms and conditions shall prevail in the event of a conflict with other specified general provisions of law.

The act defines a landowner-voter district and prescribes certain voting thresholds for landowner-voter districts for elections associated with proposals initiated by a local agency formation commission.

This bill would make nonsubstantive, technical changes to these provisions.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 56100 of the Government Code is  
2 amended to read:  
3 56100. (a) Except as otherwise provided in Section 56036.5  
4 and subdivision (b) of Section 56036.6, this division provides the  
5 sole and exclusive authority and procedure for the initiation,  
6 conduct, and completion of changes of organization and  
7 reorganization for cities and districts. All changes of organization

1 and reorganizations shall be initiated, conducted, and completed  
2 in accordance with, and as provided in, this division.

3 (b) Notwithstanding any other law, proceedings for the  
4 formation of a district shall be conducted as authorized by the  
5 principal act of the district proposed to be formed, except that the  
6 commission shall serve as the conducting authority and the  
7 procedural requirements of this division shall apply and shall  
8 prevail in the event of conflict with the procedural requirements  
9 of the principal act of the district. In the event of such a conflict,  
10 the commission shall specify the procedural requirements that  
11 apply, consistent with the requirements of this section.

12 SEC. 2. Section 56101 of the Government Code is repealed.

13 SEC. 3. Section 56106 of the Government Code is amended  
14 to read:

15 56106. Any provisions in this division governing the time  
16 within which an official or the commission is to act shall in all  
17 instances, except for notice requirements and the requirements of  
18 subdivision (h) of Section 56658 and subdivision (b) of Section  
19 56895, be deemed directory, rather than mandatory.

20 SEC. 4. Section 56332 of the Government Code is amended  
21 to read:

22 56332. (a) The independent special district selection committee  
23 shall consist of the presiding officer of the legislative body of each  
24 independent special district. However, if the presiding officer of  
25 an independent special district is unable to participate in a meeting  
26 or election of the independent special district selection committee,  
27 the legislative body of the district may appoint one of its members  
28 as an alternate to participate in the selection committee in the  
29 presiding officer's place. Those districts shall include districts  
30 located wholly within the county and those containing territory  
31 within the county representing 50 percent or more of the assessed  
32 value of taxable property of the district, as shown on the last  
33 equalized county assessment roll. Each member of the committee  
34 shall be entitled to one vote for each independent special district  
35 of which he or she is the presiding officer or his or her alternate  
36 as designated by the governing body. Members representing a  
37 majority of the eligible districts shall constitute a quorum.

38 (b) The executive officer shall call and give written notice of  
39 all meetings of the members of the selection committee. A meeting  
40 shall be called and held under one of the following circumstances:

1 (1) Whenever the executive officer anticipates that a vacancy  
2 will occur within the next 90 days among the members or alternate  
3 member representing independent special districts on the  
4 commission.

5 (2) Whenever a vacancy exists among the members or alternate  
6 member representing independent special districts upon the  
7 commission.

8 (3) Upon receipt of a written request by one or more members  
9 of the selection committee representing districts having 10 percent  
10 or more of the assessed value of taxable property within the county,  
11 as shown on the last equalized county assessment roll.

12 (c) The selection committee shall appoint two regular members  
13 and one alternate member to the commission. The members so  
14 appointed shall be elected or appointed members of the legislative  
15 body of an independent special district residing within the county  
16 but shall not be members of the legislative body of a city or county.  
17 If one of the regular district members is absent from a commission  
18 meeting or disqualifies himself or herself from participating in a  
19 meeting, the alternate district member may serve and vote in place  
20 of the regular district member for that meeting. Service on the  
21 commission by a regular district member shall not disqualify, or  
22 be cause for disqualification of, the member from acting on  
23 proposals affecting the special district on whose legislative body  
24 the member serves. The special district selection committee may,  
25 at the time it appoints a member or alternate, provide that the  
26 member or alternate is disqualified from voting on proposals  
27 affecting the district on whose legislative body the member serves.

28 (d) If the office of a regular district member becomes vacant,  
29 the alternate member may serve and vote in place of the former  
30 regular district member until the appointment and qualification of  
31 a regular district member to fill the vacancy.

32 (e) A majority of the independent special district selection  
33 committee may determine to conduct the committee's business by  
34 mail, including holding all elections by mailed ballot, pursuant to  
35 subdivision (f).

36 (f) If the independent special district selection committee has  
37 determined to conduct the committee's business by mail or if the  
38 executive officer determines that a meeting of the special district  
39 selection committee, for the purpose of selecting the special district  
40 members or filling vacancies, is not feasible, the executive officer

1 shall conduct the business of the committee by mail. Elections by  
2 mail shall be conducted as provided in this subdivision.

3 (1) The executive officer shall prepare and deliver a call for  
4 nominations to each eligible district. The presiding officer, or his  
5 or her alternate as designated by the governing body, may respond  
6 in writing by the date specified in the call for nominations, which  
7 date shall be at least 30 days from the date on which the executive  
8 officer mailed the call for nominations to the eligible district.

9 (2) At the end of the nominating period, if only one candidate  
10 is nominated for a vacant seat, that candidate shall be deemed  
11 selected. If two or more candidates are nominated, the executive  
12 officer shall prepare and deliver one ballot and voting instructions  
13 to each eligible district. The ballot shall include the names of all  
14 nominees and the office for which each was nominated. Each  
15 presiding officer, or his or her alternate as designated by the  
16 governing body, shall return the ballot to the executive officer by  
17 the date specified in the voting instructions, which date shall be  
18 at least 30 days from the date on which the executive officer mailed  
19 the ballot to the eligible district.

20 (3) The call for nominations, ballot, and voting instructions shall  
21 be delivered by certified mail to each eligible district. As an  
22 alternative to the delivery by certified mail, the executive officer,  
23 with prior concurrence of the presiding officer or his or her  
24 alternate as designated by the governing body, may transmit  
25 materials by electronic mail.

26 (4) If the executive officer has transmitted the call for  
27 nominations or ballot by electronic mail, the presiding officer, or  
28 his or her alternate as designated by the governing body, may  
29 respond to the executive officer by electronic mail.

30 (5) Each returned nomination and ballot shall be signed by the  
31 presiding officer or his or her alternate as designated by the  
32 governing body of the eligible district.

33 (6) For an election to be valid, at least a quorum of the special  
34 ~~district~~ *districts* must submit valid ballots. The candidate receiving  
35 the most votes shall be elected, unless another procedure has been  
36 adopted by the selection committee. Any nomination and ballot  
37 received by the executive officer after the date specified is invalid,  
38 ~~provided~~ *provided*, however, that if a quorum of ballots is not  
39 received by that date, the executive officer shall extend the date  
40 to submit ballots by 60 days and notify all ~~district~~ *districts* of the

1 extension. The executive officer shall announce the results of the  
2 election within seven days of the date specified.

3 (7) All election materials shall be retained by the executive  
4 officer for a period of at least six months after the announcement  
5 of the election results.

6 (g) For purposes of this section, “executive officer” means the  
7 executive officer or designee as authorized by the commission.

8 SEC. 5. Section 56434 is added to the Government Code, to  
9 read:

10 56434. (a) The commission may review and comment upon  
11 both of the following:

12 (1) The extension of services into previously unserved territory  
13 within unincorporated areas.

14 (2) The creation of new service providers to extend urban type  
15 development ~~unto~~ into previously unserved territory within  
16 unincorporated areas.

17 (b) The purpose of the review authorized by this section shall  
18 ensure that the proposed extension of services or creation of new  
19 service providers is consistent with the policies of Sections 56001,  
20 56300, and 56301, and with the adopted policies of the commission  
21 implementing these sections, including promoting orderly  
22 development, discouraging urban sprawl, preserving open space  
23 and prime agricultural lands, providing housing for persons and  
24 families of all incomes, and the efficient extension of governmental  
25 services.

26 (c) This section shall remain in effect only until January 1, 2019,  
27 and as of that date is repealed.

28 SEC. 6. Section 56653 of the Government Code is amended  
29 to read:

30 56653. (a) If a proposal for a change of organization or  
31 reorganization is submitted pursuant to this part, the applicant shall  
32 submit a plan for providing services within the affected territory.

33 (b) The plan for providing services shall include all of the  
34 following information and any additional information required by  
35 the commission or the executive officer:

36 (1) An enumeration and description of the services to be  
37 extended to the affected territory.

38 (2) The level and range of those services.

39 (3) An indication of when those services can feasibly be  
40 extended to the affected territory.

1 (4) An indication of any improvement or upgrading of structures,  
2 roads, sewer or water facilities, or other conditions the local agency  
3 would impose or require within the affected territory if the change  
4 of organization or reorganization is completed.

5 (5) Information with respect to how those services will be  
6 financed.

7 SEC. 7. Section 56668 of the Government Code is amended  
8 to read:

9 56668. Factors to be considered in the review of a proposal  
10 shall include, but not be limited to, all of the following:

11 (a) Population and population density; land area and land use;  
12 per capita assessed valuation; topography, natural boundaries, and  
13 drainage basins; proximity to other populated areas; the likelihood  
14 of significant growth in the area, and in adjacent incorporated and  
15 unincorporated areas, during the next 10 years.

16 (b) The need for organized community services; the present  
17 cost and adequacy of governmental services and controls in the  
18 area; probable future needs for those services and controls; probable  
19 effect of the proposed incorporation, formation, annexation, or  
20 exclusion and of alternative courses of action on the cost and  
21 adequacy of services and controls in the area and adjacent areas.

22 “Services,” as used in this subdivision, refers to governmental  
23 services whether or not the services are services which would be  
24 provided by local agencies subject to this division, and includes  
25 the public facilities necessary to provide those services.

26 (c) The effect of the proposed action and of alternative actions,  
27 on adjacent areas, on mutual social and economic interests, and  
28 on the local governmental structure of the county.

29 (d) The conformity of both the proposal and its anticipated  
30 effects with both the adopted commission policies on providing  
31 planned, orderly, efficient patterns of urban development, and the  
32 policies and priorities in Section 56377.

33 (e) The effect of the proposal on maintaining the physical and  
34 economic integrity of agricultural lands, as defined by Section  
35 56016.

36 (f) The definiteness and certainty of the boundaries of the  
37 territory, the nonconformance of proposed boundaries with lines  
38 of assessment or ownership, the creation of islands or corridors of  
39 unincorporated territory, and other similar matters affecting the  
40 proposed boundaries.

1 (g) A regional transportation plan adopted pursuant to Section  
2 65080.

3 (h) The proposal's consistency with city or county general and  
4 specific plans.

5 (i) The sphere of influence of any local agency which may be  
6 applicable to the proposal being reviewed.

7 (j) The comments of any affected local agency or other public  
8 agency.

9 (k) The ability of the newly formed or receiving entity to provide  
10 the services which are the subject of the application to the area,  
11 including the sufficiency of revenues for those services following  
12 the proposed boundary change.

13 (l) Timely availability of water supplies adequate for projected  
14 needs as specified in Section 65352.5.

15 (m) The extent to which the proposal will affect a city or cities  
16 and the county in achieving their respective fair shares of the  
17 regional housing needs as determined by the appropriate council  
18 of governments consistent with Article 10.6 (commencing with  
19 Section 65580) of Chapter 3 of Division 1 of Title 7.

20 (n) Any information or comments from the landowner or owners,  
21 voters, or residents of the affected territory.

22 (o) Any information relating to existing land use designations.

23 (p) The extent to which the proposal will promote environmental  
24 justice. As used in this subdivision, "environmental justice" means  
25 the fair treatment of people of all races, cultures, and incomes with  
26 respect to the location of public facilities and the provision of  
27 public services.

28 SEC. 8. Section 56886 of the Government Code is amended  
29 to read:

30 56886. Any change of organization or reorganization may  
31 provide for, or be made subject to one or more of, the following  
32 terms and conditions. If a change of organization or reorganization  
33 is made subject to one or more of the following terms and  
34 conditions in the commission's resolution making determinations,  
35 the terms and conditions imposed shall prevail in the event of a  
36 conflict between a specific term and condition authorized pursuant  
37 to this section and any of the general provisions of Part 5  
38 (commencing with Section 57300). However, none of the following  
39 terms and conditions shall directly regulate land use, property  
40 development, or subdivision requirements:

1 (a) The payment of a fixed or determinable amount of money,  
2 either as a lump sum or in installments, for the acquisition, transfer,  
3 ~~use~~ use, or right of use of all or any part of the existing property,  
4 real or personal, of any city, county, or district.

5 (b) The levying or fixing and the collection of any of the  
6 following, for the purpose of providing for any payment required  
7 pursuant to subdivision (a):

8 (1) Special, extraordinary, or additional taxes or assessments.

9 (2) Special, extraordinary, or additional service charges, rentals,  
10 or rates.

11 (3) Both taxes or assessments and service charges, rentals, or  
12 rates.

13 (c) The imposition, exemption, transfer, division, or  
14 apportionment, as among any affected cities, affected counties,  
15 affected districts, and affected territory of liability for payment of  
16 all or any part of principal, interest, and any other amounts which  
17 shall become due on account of all or any part of any outstanding  
18 or then authorized but thereafter issued bonds, including revenue  
19 bonds, or other contracts or obligations of any city, county, district,  
20 or any improvement district within a local agency, and the levying  
21 or fixing and the collection of any (1) taxes or assessments, or (2)  
22 service charges, rentals, or rates, or (3) both taxes or assessments  
23 and service charges, rentals, or rates, in the same manner as  
24 provided in the original authorization of the bonds and in the  
25 amount necessary to provide for that payment.

26 (d) If, as a result of any term or condition made pursuant to  
27 subdivision (c), the liability of any affected city, affected county,  
28 or affected district for payment of the principal of any bonded  
29 indebtedness is increased or decreased, the term and condition  
30 may specify the amount, if any, of that increase or decrease which  
31 shall be included in, or excluded from, the outstanding bonded  
32 indebtedness of that entity for the purpose of the application of  
33 any statute or charter provision imposing a limitation upon the  
34 principal amount of outstanding bonded indebtedness of the entity.

35 (e) The formation of a new improvement district or districts or  
36 the annexation or detachment of territory to, or from, any existing  
37 improvement district or districts.

38 (f) The incurring of new indebtedness or liability by, or on behalf  
39 of, all or any part of any local agency, including territory being  
40 annexed to any local agency, or of any existing or proposed new

1 improvement district within that local agency. The new  
2 indebtedness may be the obligation solely of territory to be annexed  
3 if the local agency has the authority to establish zones for incurring  
4 indebtedness. The indebtedness or liability shall be incurred  
5 substantially in accordance with the laws otherwise applicable to  
6 the local agency.

7 (g) The issuance and sale of any bonds, including authorized  
8 but unissued bonds of a local agency, either by that local agency  
9 or by a local agency designated as the successor to any local agency  
10 which is extinguished as a result of any change of organization or  
11 reorganization.

12 (h) The acquisition, improvement, disposition, sale, transfer, or  
13 division of any property, real or personal.

14 (i) The disposition, transfer, or division of any moneys or funds,  
15 including cash on hand and moneys due but uncollected, and any  
16 other obligations.

17 (j) The fixing and establishment of priorities of use, or right of  
18 use, of water, or capacity rights in any public improvements or  
19 facilities or any other property, real or personal. However, none  
20 of the terms and conditions ordered pursuant to this subdivision  
21 shall modify priorities of use, or right of use, to water, or capacity  
22 rights in any public improvements or facilities that have been fixed  
23 and established by a court or an order of the State Water Resources  
24 Control Board.

25 (k) The establishment, continuation, or termination of any office,  
26 department, or board, or the transfer, combining, consolidation,  
27 or separation of any offices, departments, or boards, or any of the  
28 functions of those offices, departments, or boards, if, and to the  
29 extent that, any of those matters is authorized by the principal act.

30 (l) The employment, transfer, or discharge of employees, the  
31 continuation, modification, or termination of existing employment  
32 contracts, civil service rights, seniority rights, retirement rights,  
33 and other employee benefits and rights.

34 (m) The designation of a city, county, or district, as the successor  
35 to any local agency that is extinguished as a result of any change  
36 of organization or reorganization, for the purpose of succeeding  
37 to all of the rights, duties, and obligations of the extinguished local  
38 agency with respect to enforcement, performance, or payment of  
39 any outstanding bonds, including revenue bonds, or other contracts  
40 and obligations of the extinguished local agency.

1 (n) The designation of (1) the method for the selection of  
2 members of the legislative body of a district or (2) the number of  
3 those members, or (3) both, where the proceedings are for a  
4 consolidation, or a reorganization providing for a consolidation or  
5 formation of a new district and the principal act provides for  
6 alternative methods of that selection or for varying numbers of  
7 those members, or both.

8 (o) The initiation, conduct, or completion of proceedings on a  
9 proposal made under, and pursuant to, this division.

10 (p) The fixing of the effective date or dates of any change of  
11 organization, subject to the limitations of Section 57202.

12 (q) Any terms and conditions authorized or required by the  
13 principal act with respect to any change of organization.

14 (r) The continuation or provision of any service provided at that  
15 time, or previously authorized to be provided by an official act of  
16 the local agency.

17 (s) The levying of assessments, including the imposition of a  
18 fee pursuant to Section 50029 or 66484.3 or the approval by the  
19 voters of general or special taxes. For the purposes of this section,  
20 imposition of a fee as a condition of the issuance of a building  
21 permit does not constitute direct regulation of land use, property  
22 development, or subdivision requirements.

23 (t) The extension or continuation of any previously authorized  
24 charge, fee, assessment, or tax by the local agency or a successor  
25 local agency in the affected territory.

26 (u) The transfer of authority and responsibility among any  
27 affected cities, affected counties, and affected districts for the  
28 administration of special tax and special assessment districts,  
29 including, but not limited to, the levying and collecting of special  
30 taxes and special assessments, including the determination of the  
31 annual special tax rate within authorized limits; the management  
32 of redemption, reserve, special reserve, and construction funds;  
33 the issuance of bonds which are authorized but not yet issued at  
34 the time of the transfer, including not yet issued portions or phases  
35 of bonds which are authorized; supervision of construction paid  
36 for with bond or special tax or assessment proceeds; administration  
37 of agreements to acquire public facilities and reimburse advances  
38 made to the district; and all other rights and responsibilities with  
39 respect to the levies, bonds, funds, and use of proceeds that would

1 have applied to the local agency that created the special tax or  
2 special assessment district.

3 (v) Any other matters necessary or incidental to any of the terms  
4 and conditions specified in this section. If a change of organization,  
5 reorganization, or special reorganization provides for, or is made  
6 subject to one or more of, the terms and conditions specified in  
7 this section, those terms and conditions shall be deemed to be the  
8 exclusive terms and conditions for the change of organization,  
9 reorganization, or special reorganization, and shall control over  
10 any general provisions of Part 5 (commencing with Section 57300).

11 SEC. 9. Section 57113 of the Government Code is amended  
12 to read:

13 57113. Notwithstanding Section 57102, 57108, or 57111, for  
14 any proposal that was initiated by the commission pursuant to  
15 subdivision (a) of Section 56375, the commission shall forward  
16 the change of organization or reorganization for confirmation by  
17 the voters if the commission finds either of the following:

18 (a) In the case of inhabited territory, protests have been signed  
19 by either of the following:

20 (1) At least 10 percent of the number of landowners within any  
21 subject agency within the affected territory who own at least 10  
22 percent of the assessed value of land within the territory. However,  
23 if the number of landowners within a subject agency is less than  
24 300, the protests shall be signed by at least 25 percent of the  
25 landowners who own at least 25 percent of the assessed value of  
26 land within the territory of the subject agency.

27 (2) At least 10 percent of the voters entitled to vote as a result  
28 of residing within, or owning land within, any subject agency  
29 within the affected territory. However, if the number of voters  
30 entitled to vote within a subject agency is less than 300, the protests  
31 shall be signed by at least 25 percent of the voters entitled to vote.

32 (b) In the case of a landowner-voter district, the territory is  
33 uninhabited and protests have been signed by at least 10 percent  
34 of the number of landowners within any subject agency within the  
35 affected territory, who own at least 10 percent of the assessed value  
36 of land within the territory. However, if the number of landowners  
37 entitled to vote within a subject agency is less than 300, protests  
38 shall be signed by at least 25 percent of the landowners entitled to  
39 vote.

1     SEC. 10. No reimbursement is required by this act pursuant to  
2     Section 6 of Article XIII B of the California Constitution because  
3     a local agency or school district has the authority to levy service  
4     charges, fees, or assessments sufficient to pay for the program or  
5     level of service mandated by this act, within the meaning of Section  
6     17556 of the Government Code.

O